

OCT 17 2007

BEFORE THE FEDERAL ELECTION COMMISSION

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COMMISSION  
SECRETARIAT

In the Matter of

Ryan Pennington

2007 OCT 17 P 2: 55  
MUR 5898

GENERAL COUNSEL'S REPORT #2

**SENSITIVE**

**I. ACTIONS RECOMMENDED**

take no action as to

the Washington State Democratic Central Committee and close the file as to it.

**II. BACKGROUND**

This matter

Washington State Democratic Central Committee ("WSDCC" or the "Committee") involves

the alleged embezzlement of funds from the Committee by one of its employees, Ryan

Pennington. On January 26, 2007, the Commission found reason to believe that Ryan

Pennington knowingly and willfully violated 2 U.S.C. § 432(b)(3) by commingling campaign

funds with personal funds and authorized an investigation.

We have now completed the investigation regarding the details of the embezzlement.

This investigation, which consisted of informal interviews of Mr. Pennington, a review of bank

records, and informal written questions posed to the Committee, provided us with information

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regarding the factual circumstances surrounding the embezzlement scheme.

**III. RESULTS OF INVESTIGATION**

Ryan Pennington joined WSDCC in March 2004 and was responsible for managing the Committee's coordinated campaign, which conducted voter identification and get-out-the-vote efforts throughout Washington. *See* Report of Investigation of Ryan Pennington ("Pennington ROI"), at 2. His primary responsibility was to organize and manage a staff of approximately sixty campaign workers in twelve field offices throughout the State. *See id.*

According to Mr. Pennington, the coordinated campaign had a budget of approximately \$3 million. The coordinated campaign had a separate bank account at the Committee, and when Mr. Pennington needed funds, he would submit requests through the Committee's finance office or write checks, which required two signatures, from the account to pay for specific expenses. *See id.* at 2-3. Mr. Pennington stated that he did not perform any recordkeeping for the coordinated campaign's account, and that the Committee's finance office performed this function. *See id.*

In addition to his responsibilities with the Committee, Mr. Pennington was a principal in a company named Requa, Pennington, Allegre L.L.P. (d/b/a/ Stack of Dimes Productions). Mr. Pennington stated that he, along with Kelly Requa and John Allegre, established Stack of Dimes in 2003 as a technology consulting firm. Stack of Dimes operated out of Ms. Requa's residence. *See id.* at 3. According to Mr. Pennington, none of the principals received a salary from Stack of Dimes, but instead withdrew funds from the Stack of Dimes account after receiving payments from clients. *See id.* Mr. Pennington stated that Stack of Dimes had a total of two or three clients prior to ceasing operations in 2005. *See id.* at 3-4.

1 According to Mr. Pennington, on four occasions between March 2004 and November  
2 2004, he hired Stack of Dimes to install computer and telephone networks in various WSDCC  
3 field offices. Mr. Pennington acknowledges that even though he had a financial interest in Stack  
4 of Dimes, he never disclosed this information to the Committee. *See id.* at 4. Based on the  
5 Committee's records, the Committee paid Stack of Dimes a total of \$65,271.23 for these  
6 services. *See* WSDCC Payments to Stack of Dimes. Mr. Pennington was unable to produce any  
7 evidence documenting the work performed by Stack of Dimes for the Committee. *See*  
8 Pennington ROI, at 6.

9 In February 2005, WSDCC noticed some accounting irregularities in the coordinated  
10 campaign's financial records. *See* Letter from K. Hamilton to N. Reiff dated June 14, 2007, at 1.  
11 The bank records indicated that every time the Committee made a payment to Stack of Dimes,  
12 Mr. Pennington also deposited an almost identical amount into the coordinated campaign's bank  
13 account. *See id.* It appears that Mr. Pennington held on to certain contributions and submitted  
14 them to the Committee at the same time as he submitted invoices from Stack of Dimes so that the  
15 coordinated campaign's bank account balance would not change significantly and the payment to  
16 Stack of Dimes would go unnoticed. When questioned about the transactions by the Committee,  
17 Mr. Pennington admitted his financial interest in Stack of Dimes, but maintained that the  
18 company provided legitimate services to the Committee. *See id.* at 2. Despite interviewing  
19 numerous members of its campaign staff, no one at the Committee could identify any specific  
20 services provided by Stack of Dimes or approximate the value of those services. *See id.*

21 Because neither the Committee nor Stack of Dimes could document the services  
22 provided by Stack of Dimes to the Committee, the Committee requested that Mr. Pennington  
23 refund \$65,271.23 to the Committee. On June 28, 2005, WSDCC received two reimbursement

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checks totaling \$60,000 from Mr. Pennington. The checks consisted of a \$50,000 cashier's check and a \$10,000 check from Jill Schwarzmiller, Mr. Pennington's step-mother.

Stack of Dimes' bank records indicate that the Committee had reason to question the legitimacy of the services provided by Stack of Dimes. As illustrated below, Mr. Pennington transferred virtually all of the funds Stack of Dimes billed the Committee into his own personal accounts and used them to pay personal expenses. Of \$65,271.23 in payments made by WSDCC deposited into the Stack of Dimes bank account, Mr. Pennington immediately transferred \$42,761.22 to a separate bank account, which he identified as his personal checking account. See Pennington ROI, at 7.

Date	Beginning balance	WSDCC Checks Deposit	Transfer to Personal Checking	Payment to credit card	Cash withdrawal
3/30/04	\$4.69	\$17,321.22			
4/9/04			\$17,161.22		
4/13/04					\$160.00
10/1/04	-\$8.31	\$9,953.26		\$9,944.95	
11/1/04	-\$11.00	\$17,996.75			
11/10/04			\$6,600.00	\$11,384.95	
11/12/04		\$20,000.00			\$1,000.00
11/23/04			\$19,000.00		

Total Deposits from WSDCC	\$65,271.23
Transferred to Personal Checking	\$42,761.22
Credit Card Payments	\$21,329.90
Cash Withdrawals	\$1,160.00
Remainder	\$20.21

According to the account statements, Mr. Pennington used these funds to pay various personal expenses such as rent, utilities, car payments, and gym dues.<sup>3</sup> See Attachment 3. The account

<sup>3</sup> Mr. Pennington also wrote over \$17,000 in cashiers' checks from this account and transferred \$22,500 to a different personal checking account. See Attachment 3.

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1 records did not contain any evidence suggesting Mr. Pennington used his personal account to  
2 provide goods or services to WSDCC.

3 Mr. Pennington used the remainder of the money in the Stack of Dimes account to pay  
4 his personal credit card bill or make cash withdrawals. In the case of the former, Mr. Pennington  
5 transferred a total of \$21,329.90 to his personal credit card shortly after depositing payments  
6 received from WSDCC. Although Mr. Pennington stated that he thought the credit card bills  
7 consisted of numerous expenses related to projects performed by Stack of Dimes for WSDCC  
8 (see Pennington ROI, at 8) in September and October 2004, the account records contradict this  
9 statement, as they indicate no new purchase activity in the account after August 17, 2004.

10 Instead, it appears that Mr. Pennington used the funds to pay down a pre-existing balance of  
11 \$20,507.96, plus fees and interest of \$821.94. See Attachment 4.

12 Mr. Pennington withdrew the remaining \$1,160 in the form of two cash withdrawals.  
13 When questioned about the cash withdrawals, Mr. Pennington stated that these transactions  
14 sounded highly unusual, and that he did not think the money was used to provide services to  
15 WSDCC.<sup>4</sup> See Pennington ROI, at 8.

16 To date, Mr. Pennington has not been criminally prosecuted for his apparent  
17 misappropriation of Committee funds.

18 **IV. LEGAL ANALYSIS**

19 The Federal Election Campaign Act of 1971, as amended (the "Act") prohibits the

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<sup>4</sup> Other than the WSDCC payments, the only other significant activity in the Stack of Dimes account consisted of a deposit of \$20,000 on October 10, 2003 by Kelly Requa. Similar to Mr. Pennington's practice, Ms. Requa transferred \$19,500 into one of her personal accounts five days later. The Stack of Dimes bank account typically had a zero or negative balance on a month-to-month basis.

1 commingling of committee funds with "the personal funds of any individual." *See* 2 U.S.C.  
2 § 432(b)(3) and 11 C.F.R. § 102.15. The evidence shows that Mr. Pennington transferred  
3 \$42,761.22 in funds from WSDCC directly to his personal account. Mr. Pennington also used  
4 WSDCC funds to pay \$21,329.90 in personal debts incurred on his credit card. *See supra* pp. 4-  
5 5. Given the timing of these transfers and the lack of any evidence to support the legitimacy of  
6 the services provided by Stack of Dimes to WSDCC, it appears that Mr. Pennington knowingly  
7 and willfully commingled \$64,091.12 in federal funds with his own personal funds. *See* MUR  
8 5813 (Stephanie Verden) (commingling established when respondent transfers funds to an  
9 interim account and later withdraws funds to personal account).

10 With respect to the WSDCC, our investigation indicates that the Committee did not  
11 violate the Act in connection with this matter. Unlike previous matters involving the  
12 embezzlement of committee funds, *see, e.g.*, MUR 5812 (Ohio State Medical Association PAC),  
13 Mr. Pennington's embezzlement did not cause the Committee to misreport any financial  
14 activity. Therefore we recommend the Commission take no action as to WSDCC and close the  
15 file as to it.<sup>7</sup>

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<sup>7</sup> Our recommendation not to proceed as to WSDCC is based solely on the facts and circumstances of the alleged embezzlement

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5 **VI. RECOMMENDATIONS**

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2. Take no action as to the Washington State Democratic Central Committee and close the file as to it; and

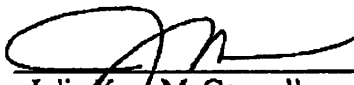
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3.

Thomasenia P. Duncan  
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10/17/07  
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2 Attachments  
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